

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Alma Telephone Company Request for)	
Waiver of § 63.71(a) of the Commission's)	NSD File No. W-P-D-557
Rules)	
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ORDER

Adopted: February 21, 2002

Released: February 21, 2002

By the Acting Chief, Network Services Division, Common Carrier Bureau:

1. In this Order, we grant Alma Telephone Company's (Alma) request for waiver of the customer notice rules in section 63.71(a)(5) of Federal Communications Commission (Commission) rules.¹ Section 63.71(a) of the Commission's rules requires a domestic carrier seeking to discontinue, reduce or impair service to, among other things, notify all affected customers of its planned action. Sections 63.71(a)(5)(i) and (ii) set forth specific language that must be provided to all affected customers,² and notice must be provided at or before the application's filing.³

2. On January 18, 2002, NSD released a Public Notice, inviting comments on Alma's discontinuance application, as well as its request for a waiver of the customer notification requirement.⁴ Alma requested a waiver of section 63.71(a) on grounds that notification would only confuse customers. Specifically, Alma explained that it was filing for discontinuance authority not because it sought to exit the market, but rather, because it proposed to legally restructure itself. According to Alma, the restructured company would have the same

¹ Alma filed the subject waiver request in conjunction with its Section 63.71 Application for Authority to Discontinue Domestic Services.

² See 47 C.F.R. § 63.71(a)(5)(i) and (ii).

³ See 47 C.F.R. § 63.71(b).

⁴ See *Comments Invited on Alma Telephone Company Application to Discontinue Domestic Telecommunications Services*, Public Notice, NSD File No. W-P-D-557, DA 02-168 (rel. Jan. 18, 2002).

shareholders, directors and management, provide the same local exchange services, serve the same customers, use the same billing name, charge the same rates, and operate under the same terms. No comments were timely filed with the Commission regarding either the waiver request or the application.

3. Pursuant to section 1.3 of the Commission's rules, the Commission may grant a waiver of its rules upon a showing of "good cause."⁵ As determined by the U.S Court of Appeals for the District of Columbia, section 1.3 allows the Commission to grant a waiver if special circumstances warrant a departure from the general rule and that departure serves the public interest.⁶

4. We find that, in this instance, customer notification would only confuse customers, since they will receive the same services under the same terms and conditions from the restructured company. Moreover, because customers have no need to find an alternative service provider in this case, the rationale for providing customer notification is inapplicable.⁷ Therefore, the Division finds that a grant of Alma's request to waive the customer notification rules in section 63.71 is in the public interest.

5. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i) and 214 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i), 214, and Sections 0.91, 0.291, 1.3 and 63.71 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 63.71, Alma's request for waiver filed January 10, 2002 IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Diane L. Griffin
Acting Chief, Network Services Division
Common Carrier Bureau

⁵ 47 C.F.R. § 1.3.

⁶ See *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 US 1027 (1972)); see also *Industrial Broadcasting Co. v. FCC*, 437 F.2d 680, 683 (D.C. Cir. 1970).

⁷ When the Commission streamlined carrier discontinuance procedures in 1999, the stated purpose for the customer notice requirement was to provide customers sufficient time to find alternative service providers. See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 and Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, 14 FCC Rcd 11364, 11380 (1999).